



THE STATE  
of **ALASKA**  
GOVERNOR SEAN PARNELL

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**Via Email and U.S. Mail**

Chris Bellovary  
Assistant Regional Counsel  
U.S. EPA, Region 10  
1200 6<sup>th</sup> Avenue, Suite 900 (ORC-158)  
Seattle, Washington 98101  
bellovary.chris@epa.gov

Re: *EPA Consent Decree*  
Case No. 3:10-cv-00115-JWS  
AGO No. AN2013104183

Dear Mr. Bellovary:

More than a year ago, the State of Alaska requested that EPA terminate Section III of the Consent Decree. Despite the fact that EPA has had all the information it needs for many months, no decision on the State's request has been made. This delay is unacceptable, and is a breach of the EPA's obligations under the Consent Decree.

The State initially requested that EPA terminate Section III of the Consent Decree on September 24, 2013. In an email message on November 15, 2013, Kathryn McDonald of the Department of Justice objected to the State's request for termination. EPA also responded to the State on November 27, 2013, demanding payment of \$445,000 in stipulated penalties accrued through 2012. Under Paragraph 41.e of the Consent Decree, denial of the State's termination requested started a period of informal negotiations between the State and EPA. On February 27, 2014, the parties met in Seattle to discuss both termination of the Consent Decree and the EPA's payment demand. At that meeting, EPA requested additional information from the State regarding the State's self-reported violations for which a waiver of payment was requested. The State provided the requested information to EPA on March 21, 2014. That was over seven months ago.

Since then, the EPA has been virtually silent regarding the State's termination request. The only communications the State has received from EPA are cryptic and evasive replies to the State's repeated requests for status updates. Phone messages to the Region 10's Director of Enforcement and Compliance have gone unreturned. No

justification for the delay has been given, beyond an indication that the response is "under review." The EPA's ongoing silence is particularly troubling because the State is aware that the EPA agreed to terminate similar decrees with other parties, namely the Idaho Transportation Department and Granite Construction, an Alaska contractor whose alleged Clean Water Act violations arise from the same projects that lead to the Consent Decree with the State.

Paragraph 41.e. of the Decree requires the parties to informally attempt to resolve any dispute over termination of the Decree. The Decree language unambiguously requires the parties to "work together" for at least 30 days to resolve the dispute. EPA's continued silence is a clear violation of this provision.

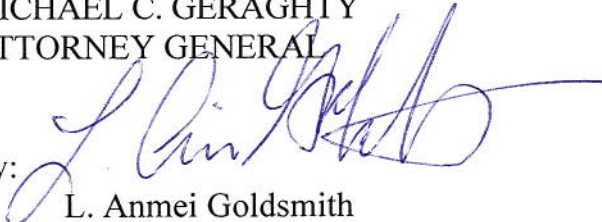
As we discussed in February, the Consent Decree has been instrumental in helping the State change contractors' attitudes about the importance of complying with the Clean Water Act. However, the contractors are also very aware that Paragraph 41 allows the State to request termination, and that termination means an end to the Decree's additional reporting requirements over and above those in the Construction General Permit. Maintaining the contractors' cooperation and good will is essential for the State to maintain compliance with the Clean Water Act. That good will is becoming difficult to sustain because the State is unable to explain to the contractors why the Consent Decree is still in place.

The State does not want to go to court to resolve the current impasse. We would much prefer to continue our discussions with you. EPA's silence, however, is leaving the State with few options.

Sincerely,

MICHAEL C. GERAGHTY  
ATTORNEY GENERAL

By:



L. Anmei Goldsmith  
Assistant Attorney General

cc: Kim Rice, P.E., Deputy Commissioner, DOT&PF  
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